

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Section 2626, as added by
Chapter 820, Statutes of 1991,

Filed by the County of San Bernardino,
Claimant.

No. CSM-4427

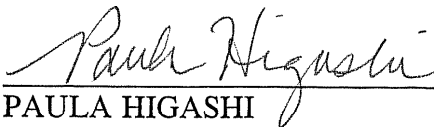
Prisoner Parental Rights

Adoption of First Amended
Parameters and Guidelines
Pursuant to Government Code
Section 17557 and Title 2, CCR,
Sections 1183.2 and 1185.3.

FIRST AMENDED PARAMETERS AND GUIDELINES

The attached *amended* Parameters and Guidelines are hereby adopted by the
Commission on State Mandates on November 20, 1997.

Date: November 21, 1997



PAULA HIGASHI
Executive Director

First Amended Parameters and Guidelines

Penal Code Section 2625 Chapter 820, Statutes of 1991

Prisoner Parental Rights

I. Summary of Mandate

Chapter 820, Statutes of 1991, amended Penal Code section 2625, to expand juvenile court actions eligible for parental attendance rights to include legal guardianship proceedings. Because the Trial Court Funding Act prohibits counties from claiming reimbursement for activities related to "court operations", the Commission on State Mandates found that only the activities of transporting prisoners to and from the court, and housing prisoners if required in the course of transport, are reimbursable activities.

II. Commission on State Mandates Decision

The Commission on State Mandates found a state-reimbursable mandate in these activities at its hearing of September 23, 1993, and adopted the Statement of Decision for this claim at its hearing of November 18, 1993.

III. Eligible Claimants

Cities and counties.

IV. Period of Reimbursement

Chapter 820, Statutes of 1991, became operative January 1, 1992. Government Code section 17557 states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed by the County of San Bernardino on December 31, 1992. Therefore, reimbursement claims may be filed for costs incurred on or after January 1, 1992.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent fiscal year may be included in the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d), subpart (3), all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise provided by Government Code section 17564.

V. Reimbursable Costs

A. Scope of Mandate

Eligible claimants shall be reimbursed for the costs to execute a court order for the removal and production of a prisoner parent before the superior court for the following juvenile court actions:

Welfare and Institutions Code section 366.26 -- Minors who are made dependent children of the juvenile court, the termination of parental rights, or the establishment of legal guardianships.

Welfare and Institutions Code section 300, subdivisions:

- (c) -- Minors suffering serious emotional damage or at substantial risk, as a result of the conduct of the parent or guardian.
- (e) -- Minors under the age of 5 suffering severe physical abuse.
- (f) -- Minors whose parent has been convicted of causing the death of another child.
- (i) -- Minors subjected to acts of cruelty.
- (j) -- Minors whose sibling has been abused and who are also at risk.

B. Reimbursable Activities

For each eligible claimant, the following activities are reimbursable:

1. Transporting Prisoners

The costs of retrieving the prisoners from the institution, transporting them to the court, holding them safely, and then returning them to the institution.

2. Housing Prisoners

The costs of housing prisoners, if required during the course of transport.

VI. Claim Preparation

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.

A. Reporting by Components

Claimed costs must be allocated according to the components of reimbursable activities described in Section V .B.

B. Supporting Documentation

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

Show the name of the employee involved, the classification of the employee involved, mandated functions performed, number of hours devoted to the function, productive hourly rate and benefits.

2. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List cost of materials or equipment acquired which have been consumed or expended specifically for the purposes of this mandate.

3 Allowable Overhead Costs

Indirect costs may be claimed either by using ten percent of direct labor as an indirect cost rate or by preparing a departmental indirect cost rate proposal to determine the rate.

VII. Supporting Data

A reimbursement claim filed by an eligible claimant is subject to audit by the Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the Controller to initiate the an audit shall begin to run from the date of initial payment of the claim. Supporting documents shall be made available to the State Controllers Office upon request.

VIII. Offsetting Savings and Other Reimbursements

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for the costs of these mandated activities received from any source, e.g., federal, state, etc. , shall be identified and deducted from this claim.

IX. State Controller's Office Required Certification

An authorized representative of the claimant will be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the statute for which reimbursement is requested.